I. Approval of Minutes. The Committee reviewed minutes for the meeting held on April 4th. The minutes were approved 3-0 with no revisions or additions.

II. Public Comment. None.


The Chair mentioned during the budget process there were several comments made over many years that School Board members would prefer a process to be put in place by means of a School Board Policy, and the Board thought the initial discussion should start in the L&P Committee.

- Staff asked the Committee to share their ideas and how they would like to envision the policy being structured. The Committee shared the following:
  - Policy should not be entitled “School Closure” rather “Consolidation of Schools”
  - Primary areas that we should be looking at are (1) capacity utilization; (2) efficiencies; and (3) instructional effectiveness. The School Board has a responsibility to maximize efficiency.
  - Look at it in our CIP by “planning area” as a clear way to measure capacity utilization.
  - Western Loudoun schools are currently under capacity, not in a growth area, and well under any of the other planning areas in terms of their utilization.
  - We need to figure out how to account for the charter schools since students are coming from all areas of Loudoun County and not just Western Loudoun.
  - Should this be a new policy or build on an existing policy (2-19, Superintendent’s Recommended Capital Improvements Program: Closure of an Existing School).
  - Policy should give guidance and set parameters.
  - The Committee requested data on services to students in Western Loudoun (ELL, SPED). How often are they being provided? How many teachers are providing services? Are the teachers itinerant and how many days per week are they at each school/per student? How are the students that are receiving services progressing? What is the impact on small schools? What would the time factor be for gathering data (i.e. one year or multi-year average)?
  - Staff stated that researching small groups can be difficult and there could be a lot of fluctuation.
  - The Committee would like a breakdown of special permissions in the small schools.
  - What other services are being affected (i.e. TRTs, library), etc?
  - The Committee would like data on Western Loudoun elementary schools’ staffing and building costs divided by the number of students in the building, to give a core cost per pupil.
  - Would there be an increase in bus travel time?
  - What are the building costs implications in the small schools?
  - What are the CIP/CAPP considerations – renovation costs? What are future growth implications if you consolidate an existing school then have to build another school several years later, how is that encapsulated into the CAPP?
  - The Committee acknowledged that it will take some time for staff to gather requested research and data.
  - To start the conversation at the next meeting, the Committee would like an outline of what the requirements are within the Code of Virginia for consolidating schools?

ACTION: None - discussion item only.
IV. Discussion Item. Recent Court Developments Related to LGBTQ. Division Counsel presented a PowerPoint and highlighted the following:

- As society continues to confront issues of sexual orientation and gender identity, schools have become a key arena where evolving views are explored and tested.
- Transgender or gender non-conforming students increasingly assert civil and educational rights at school, which means school staff and leadership must balance a growing number of competing voices for:
  - accommodation;
  - privacy and safety;
  - requirements from state and federal agencies; and
  - special interest groups.
- Virginia has been an initial battleground state with 2 cases (G.G. Grimm v. Gloucester County School Board and Andrea Lafferty and the Traditional Values Coalition v. Fairfax County School Board) as well as an attorney general opinion by AG Mark Herring in March 2015. Mark Herring overruled the prior AG opinion.
- After this opinion, the FCSB expanded its non-discrimination policy to include “gender identity” and expanded its student code of conduct to include “gender identity” and “gender expression” but subsequently suspended enforcement of it regarding transgender students pending the outcome of G.G. Grimm v. Gloucester County School Board case which was making its way through the federal court system at the time.
- An advocacy group called the Traditional Values Coalition and 2 parents (Jane and John Doe) and their child (Jack Doe) brought a lawsuit challenging the authority to expand its non-discrimination policy under the Dillon Rule.
  - The Fairfax Circuit Court dismissed the case for lack of standing and the Virginia Supreme Court agreed;
  - Courts don’t give advisory opinions, a complaint has to allege a justiciable controversy based on specific adverse claims based present rather than future speculative facts; and
  - The Supreme Court did not address the authority of the School Board and we are left without any judicial guidance as a result of this case.
- May 2015, a very junior member in the Office of Civil Rights, issued a letter in which he determined that transgender students must be treated consistent with their gender identity under Title IX. A year later, the Assistant Secretary of Education for Civil Rights and her counterpart at the Department of Justice jointly issued a formal Dear Colleague Letter (May 13, 2016) interpreting Title IX sex discrimination to include gender identity.
- On August 21, 2016, a Texas federal court issued a nationwide injunction prohibiting the OCR’s enforcement of the joint guidance DCL.
- In G.G. v. Gloucester a transgender high school student filed a lawsuit in a federal district court in Virginia alleging that a school district policy, which prohibited him from using the boys’ bathroom at school, violated Title IX and his constitutional rights.
  - He also filed a motion for a preliminary injunction asking the court to enjoin the school district from enforcing the policy during the pendency of his case which was denied;
  - He appealed the injunction to the 4th Circuit Court of Appeals and it held that the lower court erred in not granting the student’s motion for injunctive relief because it (among other things) failed to give deference to the Department of Education’s opinion;
  - The lower court subsequently issued a ruling, consistent with the Fourth Circuit’s decision, granting the student’s motion for injunctive relief and requiring the school district to allow the student to use the boys’ bathroom pending the outcome of the case;
  - The school district then asked the U. S. Supreme Court for a stay of the Fourth Circuit’s ruling, pending a possible decision by the Supreme Court which it was granted on October 28, 2016.
  - In January 2017, President Donald Trump took office and on February 22, 2017, his administration issued a different “Dear Colleague” letter, which withdrew the May 13, 2016 guidance and a statement of policy that was reflected in a policy letter, dated January 7, 2015, from James A. Ferg-Cadima;
On March 3, 2017, the United States Supreme Court vacated the Fourth Circuit Court of Appeal’s order in favor of the transgender Gloucester student and remanded the case to the Fourth Circuit with the instruction that it was to give further consideration to the case “in light of the guidance document issued by the Department of Education and Department of Justice on February 22, 2017;”

On April 7, 2017, the 4th Circuit vacated the preliminary injunction the district court had issued months earlier preventing the school board from enforcing its bathroom policy; and

On April 13, 2017, the district court acknowledged that G.G. had a pending equal protection clause claim so the district court stayed the case pending further action from the 4th Circuit dismissing the Title IX claim which has yet not been done.

- The Trump administration has rescinded the Obama administration’s guidance about the accommodation of transgender students, the new guidance still indicates that schools have an obligation to continue to implement policies that prevent the bullying and harassment of transgender students.
- The Committee thanked Mr. DeVita for the update and requested:
  - Any policy that relates to harassment and/or bullying of students; and

**ACTION:** None - discussion item only.

**Other Discussion Items and Requests from the Committee:**
- Start a discussion on the need for a policy to guide the disposition of policies;
- What is the time frame for student related policies in the Strategic Action Plan (Chapter 8);
- Email the Policy Strategic Action Plan and share any notes regarding what’s currently being processed for review;
- Review the committee assignments for Chapter 8 (Committee expressed concern that too many policies are being assigned to the C&I Committee); and
- Follow-up with Rich regarding the revision of Policy 8640, Disclosure of Personally Identifiable Information that was brought to the April L&P meeting with some urgency.

**VI. Adjourn.** The meeting was adjourned at 9:50 a.m.